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**VIA ELECTRONIC FILING**

United States Magistrate Judge James Orenstein  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**RE: Phoenix Beverages, Inc. v. ExxonMobil Corp., Case No. 1:12-cv-03771-JKC-JO**

Dear Judge Orenstein:

This letter is sent on behalf of Plaintiffs Phoenix Beverages, Inc., RODB LLC, Windmill Distributing Company, L.P., Up from the Ashes, Inc., and other affiliated companies (collectively, "Plaintiffs"), concerning the Court's May 8, 2014 Order setting a hearing on Plaintiffs' Motion to Compel for May 22, 2014.

On April 11, 2014, Plaintiffs filed a motion to compel the production of certain documents withheld by Defendants Quanta Resources Corp. ("Quanta") and Exxon Mobil Corp. and ExxonMobil Research and Engineering Co. ("Exxon"). Docket Number ("Dkt.") 379. On April 16, 2014, Quanta produced all but four of the documents it had previously withheld from disclosure, Dkt. 381, and Plaintiffs and Exxon negotiated an agreed schedule for Exxon's disclosure of the documents that had been withheld, Dkt. 382-1, which was SO ORDERED by the Court on May 8, 2014.

The four remaining documents that Quanta has withheld from production are all a part of the settlement reached in DMJ Associates LLC v. Capasso, 1:97-cv-07285-DLI-RML (E.D.N.Y.), specifically:

- (1) The June 27, 2005 Confidential Settlement Agreement and Mutual Release between DMJ Associates, LLC and Settling Defendants with appendices and addenda;
- (2) The June 2005 Confidential Settlement Agreement and Limited Mutual Release between Settling Parties and Cash-Out Parties;

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- (3) The June 2005 Confidential Phoenix Settlement Agreement and Mutual Limited Release – Phoenix Beverage Site and Related Issues between Exxon Mobil and Other Settling Parties;
- (4) The June 23, 2005 Final Version Quanta Site Participation Agreement

Counsel for Plaintiffs and Quanta have held further discussions concerning these documents, and agree that they do not need to be produced at this time. To the extent that a need may arise in the future for Plaintiffs to seek disclosure of these documents, the Parties also agree that the Court's April 23, 2013 Stipulation and Protective Order, Dkt. 56 ¶ 3, provides for the Plaintiffs to seek that relief.

As such, Plaintiffs withdraw their Motion to Compel without prejudice with respect to these four documents and request adjournment of the hearing scheduled for May 22, 2014, as there is no present dispute among the Parties necessitating any action from the Court.

Respectfully submitted,

**Hunsucker Goodstein PC**

/s/ Stacey H. Myers  
Stacey H. Myers

Cc: all counsel of record (via ECF system)